

TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL

FOR: HEALTH CARE FINANCING ADMINISTRATION

TO: REGIONAL ADMINISTRATOR  
HEALTH CARE FINANCING ADMINISTRATION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

1. TRANSMITTAL NUMBER:  
03-07

2. STATE  
Kentucky

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE  
SOCIAL SECURITY ACT (MEDICAID)

4. PROPOSED EFFECTIVE DATE  
June 1, 2003

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN                      ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN                      ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:  
Section 1924 of the Social Security Act

7. FEDERAL BUDGET IMPACT:  
a. FFY 2003                      \$0  
b. FFY 2004                      \$0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  
  
Attachment 2.6-A, pages 4b, 4c, 26a and  
Supplement 13 to Attachment 2.6-A

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (If Applicable):  
  
Same

10. SUBJECT OF AMENDMENT:  
Spousal Impoverishment Requirements

11. GOVERNOR'S REVIEW (Check One):  
☐ GOVERNOR'S OFFICE REPORTED NO COMMENT  
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

X OTHER, AS SPECIFIED: Review delegated  
to Commissioner, Department for Medicaid  
Services

12. SIGNATURE OF STATE AGENCY OFFICIAL:

16. RETURN TO:

13. TYPED NAME: Mike Robinson

Frances McGraw  
Eligibility Policy Branch  
Department for Medicaid Services  
275 East Main Street 6W-C  
Frankfort, Kentucky 40621

14. TITLE: Commissioner, Department for Medicaid Services

15. DATE SUBMITTED: 6/18/03

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:  
June 23, 2003

18. DATE APPROVED:  
September 15, 2003

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:  
June 1, 2003

20. SIGNATURE OF REGIONAL OFFICIAL:  
*Rhonda R. Cottrell*  
21. TYPED NAME: Rhonda R. Cottrell  
22. TITLE: Associate Regional Administrator  
Division of Medicaid & Children's Health

23. REMARKS:

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Citation

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Condition or Requirement

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For the following persons with greater need:

Supplement 12a to Attachment 2.6-A describes the greater need; describes the basis or formula for determining the deductible amount when a specific amount is not listed above; lists the criteria to be met; and where appropriate; identifies the organizational unit which determines that a criterion is met.

1924 of the Act

3. In addition to the amounts under item 2., the following monthly amounts are deducted from the remaining income of an institutionalized individual with a community spouse:
- a. The monthly income allowance for the community spouse, calculated using the formula in §1924(d)(2), is the amount by which the maintenance needs standard exceeds the community spouse's income. The maintenance needs standard cannot exceed the maximum prescribed in §1924(d)(3)(C). The maintenance needs standard consists of a poverty level component plus an excess shelter allowance.

  X   The poverty level component is calculated using the applicable percentage (set out §1924(d)(3)(B) of the Act) of the official poverty level.

       The poverty level component is calculated using a percentage greater than the applicable percentage, equal to       %, of the official poverty level (still subject to maximum maintenance needs standard).

       The maintenance needs standard for all community spouses is set at the maximum permitted by §1924(d)(3)(C).

Except that, when applicable, the State will set the community spouse's monthly income allowance at the amount by which exceptional maintenance needs, established at a fair hearing, exceed the community spouse's income, or at the amount of any court ordered support.

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CitationCondition or Requirement

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In determining any excess shelter allowance, utility expenses are calculated using:

\_\_\_ the standard utility allowance under §5(e) of the Food Stamp Act of 1977; or

X the actual unreimbursable amount of the community spouse's utility expenses less any portion of such amount included in condominium or cooperative charges.

- b. The monthly income allowance for other dependent family members living with the community spouse is:

X one-third of the amount by which the poverty level component (calculated under §1924(d)(3)(A)(i) of the Act, using the applicable percentage specified in §1924(d)(3)(B)) exceeds the dependent family member's monthly income.

\_\_\_ a greater amount calculated as follows:

The standards described above are used for individuals receiving home and community based waiver services in lieu of services provided in a medical and remedial care institution.

The following definition is used in lieu of the definition provided by the Secretary to determine the dependency of family members under §1924(d)(1):

The Definition of Dependency:

For the purpose of deducting allowances under Section 1924, a dependent means a child, parent, or sibling who lives with the community spouse and is claimed as a dependent by either spouse under the Internal Revenue Services Code.

- c. Amounts for health care expenses described below that are incurred by and for the institutionalized individual and are not subject to payments by a third party:

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Citation	Condition or Requirement
1924 of the Act	<p>15. The agency complies with the provisions of §1924 with respect to income and resource eligibility and posteligibility determinations for individuals who are expected to be institutionalized for at least 30 consecutive days and who have a spouse living in the community.</p> <p>When applying the formula used to determine the amount of resources initial eligibility determinations, the State standard for community spouses is:</p> <p>____ the maximum standard permitted by law;</p> <p>____ the minimum standard permitted by law; or</p> <p><u>\$20,000</u> a standard that is an amount between the minimum and the maximum.</p>

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: KENTUCKY

SECTION 1924 PROVISIONS

- A. Income and resource eligibility policies used to determine eligibility for institutionalized individuals who have spouses living in the community are consistent with Section 1924.
- B. In the determination of resource eligibility for the community spouse, the state resource standard is \$20,000.
- C. The definition of undue hardship for purposes of determining if institutionalized spouses receive Medicaid in spite of having excess countable resources is described below:

"Undue hardship" exists when Medicaid eligibility of the institutionalized spouse cannot be established on the basis of assigned support rights and institutionalized spouse is subject to discharge from the medical institution, nursing facility, or HCBS waiver program due to inability to pay.

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TN No. 03-07  
Supersedes  
TN No. 89-37

Approval Date 9/15/03

Effective Date 6/01/03